



Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: KY7/54/12

Re: Property at 2 Brae View Crescent, Star of Markinch, Fife ("the house")

The Parties:-

Michelle Corlett, previously of 2 Brae View Crescent, Star of Markinch, Fife ("the Tenant")

Brian and Mary Bell, 16 Meadowside Road, Cupar ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written evidence supplied by the Landlord at the inspection, determined that Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated March 2012 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the house meets the Repairing Standard. In particular that the Landlord had failed to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation, and that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
3. The Tenant then left the property and the application to the Private Rented Housing Committee was treated as withdrawn by the Tenant. However given the nature of the alleged defects in the property, the Committee in terms of Schedule 3 (Section 7) (3) of the Housing (Scotland) Act 2006, were not prepared to abandon consideration of the application. The Committee understood that the Landlord was presently carrying out work on the property and accordingly, in order to assist in deciding whether or not it was necessary to proceed to make a determination on the application, the Private Rented Housing Committee on its own initiative and for the purposes of making enquiries in terms of paragraph 3(1) of Schedule 2 of the Housing (Scotland) Act 2006, gave the following Direction to the Landlord in terms of Regulation 14 of the Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007 :- That the Landlord provide evidence by way of specification for the work and final invoice to show that the hole in the roof at the house has been repaired and also that the Landlord provide a report from a suitably qualified gas safe registered engineer showing that the heating system is in working order and all the controls are functioning.
4. Unfortunately the Landlord failed to provide the documentation requested in the direction within the timescale required. Accordingly the Private Rented Housing Committee comprising (Mrs Judith Lea, Chairman and Legal Member, Geraldine Wooley, Surveyor Member and Scott Campbell, Housing member) inspected the Property on 23 November

2012. New Tenants were in occupation in the property and the Landlord was present. The Landlord handed over a copy of a Gas Safety Certificate which had been issued on 27 September 2012 by a Gas Safe registered company. The Landlord also confirmed that the property now had a new central heating boiler and that thermal insulation had been put in the loft. The new Tenant confirmed that there had been no water ingress to the property during the recent heavy rain.

5. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Lomond Centre, Glenrothes but neither the Tenant nor the Landlord attended.
6. It was clear from inspection of the property that the two upstairs bedrooms showed no sign of any water penetration and there was no evidence of any holes in the roof. The new Tenant confirmed that there was no problem with the roof. It was also clear that a new gas central heating boiler has been installed and the Committee saw the installation and commissioning documentation. The Committee was also satisfied with the Gas Safety Certificate produced by the Landlord from ARD Plumbing and Heating Services.
7. In the circumstances the Committee considered that the Landlord had now complied with the Direction issued by the Committee on 31 August 2012 and considered that the property did meet the Repairing Standard in respect of the items which had been raised by the previous Tenant. In the circumstances there was no requirement to make a Repairing Standard Enforcement Order.

Decision

8. The Committee accordingly determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
9. The decision of the Committee was unanimous.

Right of Appeal

10. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

11. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Lea** Date 27/11/12

Chairperson